

Senate File 2139

H-8186

1 Amend Senate File 2139, as passed by the Senate, as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. NEW SECTION. **668.12A Liability for employee**  
5 **negligence in actions involving commercial motor vehicles.**

6 1. Subject to subsection 4, in a civil action involving the  
7 operation of a commercial motor vehicle as defined in section  
8 321.1, if an employer who is a defendant in the action complies  
9 with subsection 2, the employer's liability for damages caused  
10 by the negligence of an employee operating a motor vehicle  
11 within the course and scope of employment shall be based  
12 solely on respondeat superior and not on the employer's direct  
13 negligence in hiring, training, supervising, or trusting the  
14 employee.

15 2. On motion of an employer who is the defendant in a  
16 civil action involving the operation of a commercial motor  
17 vehicle, a trial court shall dismiss from the civil action  
18 any claim of the employer's direct negligence in hiring,  
19 training, supervising, or trusting the employee, or other  
20 claim of direct negligence on the part of the employer for the  
21 employee's harmful conduct, or other similar claims, if the  
22 employer stipulates that at the time of the event that caused  
23 the damages that are the subject of the civil action that the  
24 person whose negligence is alleged to have caused the damages  
25 was the employer's employee and was acting within the course  
26 and scope of employment with the employer.

27 3. If an employer makes the stipulations in subsection 2  
28 with respect to an employee, and the employee's negligence is  
29 found to have caused or contributed to causing the damages,  
30 the employer shall be adjudged liable solely on the basis of  
31 respondeat superior for all the resulting damages.

32 4. This section shall not apply if the civil action  
33 involving a commercial motor vehicle arises from an incident  
34 for which an employee is convicted under section 321J.2 or  
35 found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R.

1 §392.5.

2 5. As used in this section, unless the context requires  
3 otherwise:

4 a. "*Convicted*" means convicted of an indictable offense and  
5 includes a guilty plea or other finding of guilt by a court of  
6 competent jurisdiction.

7 b. "*Operation*" or "*operating*" means actual physical control  
8 of a commercial motor vehicle upon a highway as defined in  
9 section 321.1.

10 Sec. 2. NEW SECTION. 668.15A Noneconomic damages —  
11 commercial motor vehicle owners or operators.

12 1. As used in this section:

13 a. "*Commercial motor vehicle*" means the same as defined in  
14 section 321.1.

15 b. "*Convicted*" means convicted of an indictable offense and  
16 includes a guilty plea or other finding of guilt by a court of  
17 competent jurisdiction.

18 c. "*Noneconomic damages*" means damages arising from  
19 pain, suffering, inconvenience, physical impairment, mental  
20 anguish, emotional pain and suffering, loss of chance, loss of  
21 consortium, or any other nonpecuniary damages.

22 d. "*Occurrence*" means the event, incident, or happening,  
23 and the acts or omissions incident thereto, which proximately  
24 caused injuries or damages for which recovery is claimed.

25 e. "*Operation*" or "*operating*" means actual physical control  
26 of a commercial motor vehicle upon a highway as defined in  
27 section 321.1.

28 2. The total amount recoverable by each plaintiff in any  
29 civil action involving the operation of a motor vehicle for  
30 noneconomic damages for personal injury or death, whether in  
31 tort, contract, or otherwise, against the owner or operator  
32 of a commercial motor vehicle shall be limited to one million  
33 dollars, regardless of the number of claims, theories of  
34 liability, or defendants in the civil action.

35 3. This section shall not apply if the civil action

1 involving a commercial motor vehicle arises from an incident  
2 for which an employee is convicted under section 321J.2 or  
3 found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R.  
4 §392.5.

5 Sec. 3. Section 668A.1, Code 2022, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 2A. A claim for punitive or exemplary  
8 damages shall not be included in any initial claim for relief.  
9 A claim for punitive or exemplary damages may be allowed by  
10 amendment to the pleadings only after the exchange of initial  
11 disclosures pursuant to the Iowa rules of civil procedure and  
12 after the plaintiff establishes prima facie proof of a triable  
13 issue. After the plaintiff establishes the existence of a  
14 triable issue, the court may, in its discretion and subject  
15 to subsection 3, allow discovery on the issue of punitive or  
16 exemplary damages as the court deems appropriate.>

17 2. Title page, by striking lines 1 and 2 and inserting <An  
18 Act relating to civil tort liability involving the operation  
19 of a commercial motor vehicle.>

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BOUSSELOT of Polk